

MDL 1570 PLAINTIFFS' EXECUTIVE COMMITTEES

In re: Terrorist Attacks on September 11, 2001 (S.D.N.Y.)

Plaintiffs' Executive Committee for Personal Injury and Death Claims	Plaintiffs' Executive Committee for Commercial Claims
Ronald L. Motley (1944-2013) Jodi Westbrook Flowers / Donald A. Migliori, <i>Co-Chairs</i> MOTLEY RICE LLC James P. Kreindler, <i>Co-Chair</i> KREINDLER & KREINDLER LLP	Elliot R. Feldman, <i>Co-Chair</i> Sean Carter, <i>Co-Chair</i> COZEN O'CONNOR
Andrew J. Maloney III, <i>Co-Liaison Counsel</i> KREINDLER & KREINDLER LLP Robert T. Haefele, <i>Co-Liaison Counsel</i> MOTLEY RICE LLC	J. Scott Tarbutton, <i>Liaison Counsel</i> COZEN O'CONNOR

VIA EMAIL

June 28, 2018

Geoffrey S. Berman, U.S. Attorney
Sarah S. Normand, Assistant U.S. Attorney
Jeannette A. Vargas, Assistant U.S. Attorney
Office of the United States Attorney for the
Southern District of New York
86 Chambers Street, 3rd Floor
New York, New York 10007

RE: *In Re: Terrorist Attacks on September 11, 2001*, 03 MDL 1570 (GBD) (SN)

Dear Geoff, Sarah, and Jeannette:

We write to follow up concerning Geoff's June 6, 2018 telephone conversation with Andrew ("Duke") Maloney regarding the 9/11 plaintiffs' subpoenas to federal agencies represented by your office.

During that call, Duke reiterated our prior written requests to schedule a prompt meeting between the three of you and a small group of attorneys from the Plaintiffs' Executive Committees to discuss the agency subpoenas, in the hopes of narrowing the areas of dispute. In response, Geoff assured Duke that the subpoenas had your office's full attention, and that the agencies were looking for documents responsive to the subpoenas. Given those ongoing efforts, Geoff indicated that you would be in a better position to discuss the issues on a substantive basis in a few weeks, and therefore proposed that a meeting be deferred until early July. As several members of the Plaintiffs' Executive Committees will be traveling out of the country during the first two weeks of July, Duke advised that it would be preferable to meet in late June, to avoid any further delays in the subpoena process. At the close of the call, Geoff indicated that he would get back to us on that request, but we have not heard back from you as of this date.

Notwithstanding your office's suggestions otherwise, we are confident that the 9/11 plaintiffs have complied with all aspects of each agency's *Touhy* regulations, and that the

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discovery sought through the subpoenas is both relevant and proportional to the needs of this singularly important litigation. Unfortunately, the agencies have yet to produce a single document in response to the subpoenas, or to provide any commitment that they intend to do so. This circumstance is especially concerning in the case of the FBI, as it has been nearly three months since the subpoena was served, and more than a month since we sent our letter in reply to the FBI's Interim *Touhy* Response. We had hoped that the requested meeting would provide clarity as to how the FBI and other agencies intended to proceed, and offer some assurance that at least partial productions would be forthcoming. Unless a meeting to discuss those issues is set for a date in the near future, we will be compelled to treat the Interim *Touhy* Responses provided by your office on behalf of the responding agencies as the final responses of those agencies, and move forward with efforts to compel compliance with the subpoenas. We would obviously prefer to seek common ground through compromise, and trust that you would as well.

To that end, please advise the earliest possible dates after July 13, 2018 on which you and the representatives of your office would be available to meet with us in person concerning the subpoenas issued to the Federal Bureau of Investigation, Department of State, Central Intelligence Agency, and Department of the Treasury.

Respectfully,

COZEN O'CONNOR

/s/ Sean P. Carter

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MDL 1570 Plaintiffs' Exec. Committee for
Commercial Claims

MOTLEY RICE

/s/ Robert T. Haefele

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MDL 1570 Plaintiffs' Exec. Committee for
Personal Injury and Death Claims

KREINDLER & KREINDLER

/s/ Andrew J. Maloney

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MDL 1570 Plaintiffs' Exec. Committee for
Personal Injury and Death Claims

cc: Members of the Plaintiffs' Executive Committees (via Email)